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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,825	12/04/2000	Freeman Leigh Rawson III	AUS920000347US1	4289

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BRACEWELL & PATTERSON LLP
INTELLECTUAL PROPERTY LAW
POST OFFICE BOX 969
AUSTIN, TX 78767-0969

EXAMINER

CHOUDHURY, AZIZUL Q

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 04/07/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/727,825

Applicant(s)

RAWSON, FREEMAN LEIGH

Examiner

Azizul Choudhury

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Specification

The disclosure is objected to because of the following informalities:

- The second paragraph under the Summary section of the disclosure may have a grammatical error in it. It is believed that a term has been omitted from the paragraph in between the terms "to" and "improvement".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 9 and 16 recite the limitation "lightweight" in probes. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Gilbert et al (US Pat No: US005666534A), hereafter referred to as Gilbert.

1. With regards to claims 1, 8 and 15, Gilbert teaches a method (systems and computer programs are methods) of gathering management information from servers within a cluster, comprising: receiving management information from probes at each of a plurality of levels within every server within the cluster; aggregating the received management information at each of the plurality of levels across all servers within the cluster; and combining the aggregate levels of management information to form a single management image of the cluster (Gilbert teaches a design for monitoring machines within a network (column 2, lines 49-59, Gilbert). To properly perform such tasks, means by which to obtain data from the remote devices (such as probes) must exist within any network monitoring design. Gilbert further teaches a design where information is obtainable about standalone and clustered machines (column 4, lines 26-29, Gilbert). In addition, Gilbert's design has the means to monitor all actions by remote devices (column 5, lines 1-5, Gilbert). Amongst those remote device characteristics that can be obtained are those concerning hardware and software information (column 9, lines 65-67, Gilbert). Gilbert's disclosure further teaches that the communication protocol needed by the remote devices can be met (column 4, lines 39-50, Gilbert) hence, the Gilbert's monitoring design must also be aware of networking traits of the remote devices. Furthermore, for a network monitoring design to function properly, it is inherent that means to detect the remote devices' OS information be present as well.

The existence of means to detect OS information for each remote device is also supported by the fact that means for software error detection is present (column 9, lines 65-67, Gilbert). Hence means for detecting hardware, software, OS, and network information regarding each remote device is present within Gilbert's design. Finally, all the error information gathered by a probe is saved within a single record (column 9, lines 30-31, Gilbert). Such a record is viewed as being equivalent to the claimed image).

2. With regards to claims 2, 9 and 16, Gilbert teaches a method (systems and computer programs are methods) wherein the step of receiving management information from probes at each of a plurality of levels within every server within the cluster further comprises: receiving information from lightweight probes within every server at each of the plurality of levels including an application server level, an operating system level, a network level, and a hardware level (As stated earlier, Gilbert's design has the means to monitor all actions by remote devices (column 5, lines 1-5, Gilbert). Amongst those remote device characteristics that can be obtained are those concerning hardware and software information (column 9, lines 65-67, Gilbert). Gilbert's disclosure further teaches that the communication protocol needed by the remote devices can be met (column 4, lines 39-50, Gilbert) hence, the Gilbert's monitoring design must also be aware of networking traits of the remote devices. Furthermore, for a network monitoring design to function properly, it is inherent that means to detect the remote devices' OS information be present as well. The existence of means to detect OS information for

each remote device is also supported by the fact that means for software error detection is present (column 9, lines 65-67, Gilbert). Hence means for detecting hardware, software, OS, and network information regarding each remote device is present within Gilbert's design. Finally, all the error information gathered by a probe is saved within a single record (column 9, lines 30-31, Gilbert)).

3. With regards to claims 3, 10 and 17, Gilbert teaches a method (systems and computer programs are methods) wherein the step of aggregating the received management information at each of the plurality of levels across all servers within the cluster further comprises: aggregating the received management information at each of the plurality of levels including an application server level, an operating system level, a network level, and a hardware level (As stated earlier, Gilbert's design has the means to monitor all actions by remote devices (column 5, lines 1-5, Gilbert). Amongst those remote device characteristics that can be obtained are those concerning hardware and software information (column 9, lines 65-67, Gilbert). Gilbert's disclosure further teaches that the communication protocol needed by the remote devices can be met (column 4, lines 39-50, Gilbert) hence, the Gilbert's monitoring design must also be aware of networking traits of the remote devices. Furthermore, for a network monitoring design to function properly, it is inherent that means to detect the remote devices' OS information be present as well. The existence of means to detect OS information for each remote device is also supported by the fact that means for software error detection is present (column 9, lines 65-67, Gilbert). Hence means for detecting hardware,

software, OS, and network information regarding each remote device is present within Gilbert's design. Finally, all the error information gathered by a probe is saved within a single record (column 9, lines 30-31, Gilbert). Such a record is viewed as being a result of the claimed aggregating process and hence the process of aggregating the information exists in Gilbert's design).

4. With regards to claims 4, 11 and 18, Gilbert teaches a method (systems and computer programs are methods) wherein the step of aggregating the received management information at each of the plurality of levels including an application server level, an operating system level, a network level, and a hardware level further comprises: aggregating the received management information at a designated management server rather than on each server within the cluster (The network monitoring tasks of Gilbert's design are performed from a host device (column 6, lines 9-24, Gilbert). In addition, as stated earlier, Gilbert's design has the means to monitor all actions by remote devices (column 5, lines 1-5, Gilbert). Amongst those remote device characteristics that can be obtained are those concerning hardware and software information (column 9, lines 65-67, Gilbert). Gilbert's disclosure further teaches that the communication protocol needed by the remote devices can be met (column 4, lines 39-50, Gilbert) hence, the Gilbert's monitoring design must also be aware of networking traits of the remote devices. Furthermore, for a network monitoring design to function properly, it is inherent that means to detect the remote devices' OS information be present as well. The existence of means to detect OS information for each remote

device is also supported by the fact that means for software error detection is present (column 9, lines 65-67, Gilbert). Hence means for detecting hardware, software, OS, and network information regarding each remote device is present within Gilbert's design. Finally, all the error information gathered by a probe is saved within a single record (column 9, lines 30-31, Gilbert). Such a record is viewed as being a result of the claimed aggregating process and hence the process of aggregating the information exists in Gilbert's design).

5. With regards to claims 5, 12, and 19, Gilbert teaches a method (systems and computer programs are methods) wherein the step of combining the aggregate levels of management information to form a single management image of the: cluster further comprises: combining the aggregate levels of management information at the designated management server (Gilbert's design has the means to monitor all actions by remote devices (column 5, lines 1-5, Gilbert). Amongst those remote device characteristics that can be obtained are those concerning hardware and software information (column 9, lines 65-67, Gilbert). Gilbert's disclosure further teaches that the communication protocol needed by the remote devices can be met (column 4, lines 39-50, Gilbert) hence, the Gilbert's monitoring design must also be aware of networking traits of the remote devices. Furthermore, for a network monitoring design to function properly, it is inherent that means to detect the remote devices' OS information be present as well. The existence of means to detect OS information for each remote device is also supported by the fact that means for software error detection is present

(column 9, lines 65-67, Gilbert). Hence means for detecting hardware, software, OS, and network information regarding each remote device is present within Gilbert's design. Finally, all the error information gathered by a probe is saved within a single record (column 9, lines 30-31, Gilbert). Such a record is viewed as being equivalent to the claimed image).

6. With regards to claim 6, 13 and 20, Gilbert teaches a method (systems and computer programs are methods) further comprising: generating an extensible markup language data stream containing the single image of the cluster; and transmitting the data stream to an adapter for each system management application executing on a designated management server within the cluster Gilbert's design has the means to monitor all actions by remote devices (column 5, lines 1-5, Gilbert). Amongst those remote device characteristics that can be obtained are those concerning hardware and software information (column 9, lines 65-67, Gilbert). Gilbert's disclosure further teaches that the communication protocol needed by the remote devices can be met (column 4, lines 39-50, Gilbert) hence, the Gilbert's monitoring design must also be aware of networking traits of the remote devices. Furthermore, for a network monitoring design to function properly, it is inherent that means to detect the remote devices' OS information be present as well. The existence of means to detect OS information for each remote device is also supported by the fact that means for software error detection is present (column 9, lines 65-67, Gilbert). Hence means for detecting hardware, software, OS, and network information regarding each remote device is present within Gilbert's

design. Finally, all the error information gathered by a probe is saved within a single record (column 9, lines 30-31, Gilbert). Such a record is viewed as being equivalent to the claimed image. No limitation is made regarding what language to use to make such an image in Gilbert's teachings. It can safely be assumed that any language acceptable within Unix (the OS used in the example provided by Gilbert) is acceptable for the markup language).

7. With regards to claims 7, 14 and 21, Gilbert teaches a method (systems and computer programs are methods) further comprising: generating commands based on the single image of the cluster; dividing the commands based upon a plurality of levels including an application server level, an operating system level, a network level, and a hardware level; subdividing the divided commands according to individual servers within the cluster; and transmitting each subdivided commands to respective probes at a corresponding level within a server within the cluster (Gilbert's design has the means to monitor all actions by remote devices (column 5, lines 1-5, Gilbert). Amongst those remote device characteristics that can be obtained are those concerning hardware and software information (column 9, lines 65-67, Gilbert). Gilbert's disclosure further teaches that the communication protocol needed by the remote devices can be met (column 4, lines 39-50, Gilbert) hence, the Gilbert's monitoring design must also be aware of networking traits of the remote devices. Furthermore, for a network monitoring design to function properly, it is inherent that means to detect the remote devices' OS information be present as well. The existence of means to detect OS information for

each remote device is also supported by the fact that means for software error detection is present (column 9, lines 65-67, Gilbert). Hence means for detecting hardware, software, OS, and network information regarding each remote device is present within Gilbert's design. Finally, all the error information gathered by a probe is saved within a single record (column 9, lines 30-31, Gilbert). In addition, Gilbert discloses that means to detect and correct errors within remote devices through commands exists within Gilbert's design (column 8, line 60 – column 9, line 9, Gilbert)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Azizul Choudhury whose telephone number is 703-305-7209. The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/727,825
Art Unit: 2143

Page 11

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DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100